

Headquarters EMPLOYEE BULLETIN

STAT

26 April 1972

CIVIL LITIGATION INVOLVING VICTOR L. MARCHETTI

1. As noted in the Employee Bulletin of 19 April 1972 on the Victor L. Marchetti case, the temporary restraining order was signed by Judge Albert V. Bryan, Jr., on 18 April 1972. Since that time, counsel for Mr. Marchetti have made various moves to try to have the restraining order dissolved. The Circuit Court of Appeals has refused to take the appeal on this aspect.

2. The problem which most concerns the court now is how to deal with classified evidence which is currently under seal and, therefore, not available to anyone without security clearance. After discussions with the court, four defense counsel have now been cleared for access.

3. The importance of the sealed exhibit is that it contains a classified memorandum analyzing certain writings done by Mr. Marchetti and describing in detail why some of his disclosures would have an immediate and serious impact on intelligence sources and methods or on international relations. This document is of necessity classified Secret. Having inspected it, Mr. Marchetti's counsel now states he wishes to discuss it with prospective witnesses. The Government offered to clear such witnesses if they were clearable and given access on the same terms as those for defense counsel. Upon objection by defense counsel the court asked why this would not serve, and counsel stated that he did not wish to give CIA the names of prospective witnesses as this might enable CIA to affect their testimony.

4. The Circuit Court has now ruled that only witnesses who can be cleared will have access to the sealed exhibit and that the Department of Justice has represented to the court that CIA will have no contact with prospective witnesses or try in any way to influence their position.

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5. If an Agency employee receives a communication of any sort from a person identified as a prospective witness, he must state that under directions from the court he cannot discuss the case in any manner and that the prospective witness must have no further contact with the Agency or with any of its employees. The Agency employee must also immediately inform the Office of the General Counsel of such communication.

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